

Amendment No. 1 to SB2398

Johnson
Signature of Sponsor

AMEND Senate Bill No. 2398*

House Bill No. 2840

by deleting all language after the enacting clause and by substituting instead the following:

SECTION 1. As used in this act:

(1) "Department" means the department of agriculture;

(2) "Ice cream truck" means a motor vehicle engaged in the curbside vending or sale of frozen or refrigerated desserts, confections, or novelties commonly known as ice cream or prepackaged candies, prepackaged snack foods, or soft drinks, primarily intended for the sale to children under thirteen (13) years of age;

(3) "Ice cream truck worker" means any individual who operates, including an owner, or who is employed to operate or to work in an ice cream truck, including but not limited to the driver of an ice cream truck; and

(4) "Owner" means a person who owns, leases, controls or manages the operations of an ice cream truck.

SECTION 2. On and after January 1, 2011, every ice cream truck worker must comply with the requirements of Section 3.

SECTION 3.

(a) The department shall require of each employer that each applicant for a position as an ice cream truck worker must, as a condition of initial employment, comply with the requirements of this section. The ice cream truck employer of each applicant is solely responsible for payment of any fee charged by the Tennessee bureau of investigation and the federal bureau of investigation for conducting the criminal history records check, which shall not exceed the cost of the inquiry.

(b) Each applicant shall complete a criminal history disclosure form in a manner approved by the department, and shall agree to release all records involving the person relating criminal history of such person to the owner and to the department for the purpose of verifying the accuracy of criminal violation information contained on the disclosure form required by this section.

(c) Each applicant shall also supply a fingerprint sample in a manner prescribed by the Tennessee bureau of investigation and the federal bureau of investigation, shall submit to a fingerprint based criminal history records check to be conducted by the Tennessee bureau of investigation, and shall submit to a review of such person's status on the department of health's vulnerable persons registry under title 68, chapter 11, part 10.

(d) The applicant shall submit to an appropriate designee of the Tennessee bureau of investigation the applicant's fingerprint sample and any information necessary to process the criminal history records check required by this section.

(e) The form shall notify the person that falsification of required information may subject the person to criminal prosecution, and that the person's employment is conditional pending a criminal records history review regarding the person's criminal history status.

(f) A copy of the disclosure form shall be maintained in the owner's records for review by the department, and the department shall maintain a copy of the disclosure form in the records of the applicant and the owner.

(g) The disclosure form, or information contained on the form, obtained pursuant to this section, together with the fingerprints of the person shall be submitted by the designee of the Tennessee bureau of investigation for the applicants, to the appropriate department staff in such format as required by the department and the Tennessee bureau of investigation and the federal bureau of investigation. The department will transmit the necessary information to the

Tennessee bureau of investigation and the federal bureau of investigation for completion of the criminal background check.

(h) The Tennessee bureau of investigation and the federal bureau of investigation shall compare the information and the fingerprint sample received with the computer criminal history files maintained by the bureau and, to the extent permitted by federal law, with federal criminal databases, and shall conduct the fingerprint and criminal history background check for the person pursuant to § 38-6-109. It shall report the existence of any criminal history involving the person to the department, which shall inform the owner of the results of the inquiry. The owner shall retain a record of the results of the inquiry for a period of three (3) years.

(i) The results of the inquiry to the Tennessee bureau of investigation and the federal bureau of investigation shall be documented in the records of the department concerning the applicant for whom the background check is sought, and the department shall also inform the owner of the eligibility of all applicants for whom a criminal background history is received.

(j) The department shall notify in writing the appropriate district attorney general of any falsification of the information on the criminal history disclosure form.

SECTION 4. In addition to the provisions of § 40-39-215, an applicant for a position as an ice cream truck worker shall not be eligible for such position if the applicant:

(1) Is an offender required to register under title 40, chapter 39, whose victim was a minor; or

(2) Has been convicted of a felony offense in violation of title 39, chapter 13, parts 1-5.

SECTION 5. Any person who knowingly employs an individual in violation of Sections 4 of this act commits a Class A misdemeanor.

SECTION 6. The commissioner of agriculture is authorized to promulgate rules and regulations to effectuate the purposes of this act. All such rules and regulations shall be promulgated in accordance with Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 7. For rulemaking purposes this act shall take effect upon becoming a law and for all other purposes, this act shall take effect on January 1, 2011, the public welfare requiring it.